

13 September 2024

OUTCOME OF INVESTIGATION INTO TWO COMPLAINTS ABOUT HER HONOUR MAGISTRATE BAZZANI

The Judicial Commission of Victoria (the **Commission**) received two separate complaints about the conduct of Her Honour Magistrate Bazzani (the **Officer**).

In relation to each complaint, the Commission found that aspects of the Officer's conduct were inconsistent with the professionalism, respect, and courtesy judicial officers are expected to show towards court users.

Investigation of the complaints

In accordance with the *Judicial Commission of Victoria Act 2016* (the **Act**), the Commission investigated the complaints. As part of its investigation, the Commission listened to the audio recordings of the proceedings and gave the Officer an opportunity to respond to the complaints. The Officer responded to the complaints.

The Commission assessed the Officer's language, comments, tone, the impact of the conduct and the Officer's response to each complaint.

The Commission's findings and assessment

First complaint

The first complaint related to a contest mention hearing for a traffic matter. It alleged that the Officer made unwarranted and personalised comments. The following examples were provided to support the allegation:

- a) The Officer stated that the costs sought by the prosecution were 'very low';
- b) The Officer commented on the complainant's appearance and dress code;
- c) The Officer accused the complainant of 'being smart and difficult';
- d) The Officer stated that she would absolve herself from the proceeding if it progressed to a contested hearing; and
- e) The Officer interrupted the complainant on several occasions and stated, 'why do people do this'.

Officer's Response

The Commission gave the Officer an opportunity to respond to the first complaint.

In response, the Officer apologised for raising her voice and acknowledged that 'it shouldn't have happened.'

The Officer detailed the experience of magistrates, noting in particular the high-volume workloads and the differences in their work from that of other judicial officers.

The Officer also noted that the complainant was disrespectful towards the court and her during the hearing. For example, the Officer stated that the complainant refused to stand multiple times when addressing the court.

Findings and Assessment

The Commission accepted that the complainant demonstrated some difficult behaviour during the hearing. Further, it was appropriate for the Officer to express displeasure at the conduct, for example, the repeated failure to stand up. The Commission acknowledged that managing court proceedings and busy court lists can be difficult.

Nonetheless, the Commission found that the Officer's conduct infringed the standards of conduct generally expected of judicial officers because:

- The Officer's tone was generally (but not always) frustrated.
- A reasonable member of the community was likely to interpret some of the Officer's comments as discourteous and critical towards the complainant. Particularly, remarks such as:
 - 'oh for the love of God, you are very difficult';
 - 'you just want to fight';
 - 'don't be a smart-alec ... it's not attractive; and
 - 'because I think you are very difficult and unnecessary, I am going to disqualify myself from hearing the case',

were inconsistent with the general expectations of courtesy and professionalism expected of judicial officers.

On the other hand, the Commission found that some aspects of the Officer's conduct were not inappropriate and formed part of the judicial function. In particular, the Officer:

- said to the complainant that it was inappropriate to attend court 'dressed as casually' as he was and indicated that there was a dress code – being about 'respect for the court'.
- put the complainant on 'notice' that if the proceeding progressed to a contested hearing and the complainant was unsuccessful, there would be an order to pay costs.

Further, there was no evidence that the Officer interrupted the complainant on several occasions and said, 'why do people do this' as alleged by the complainant.

Outcome

Overall, the Commission found the first complaint that the Officer made some unwarranted and personalised comments substantiated.

The Commission referred the first complaint to the Chief Magistrate (as head of jurisdiction) with the following recommendations as to the Officer's future conduct:

- The head of jurisdiction counsels the Officer as to appropriate judicial conduct, including the need to exercise sensitivity, courtesy and respect in the court room.
- The Officer read and/or refamiliarise herself with relevant resources.

Second complaint

The second complaint concerned several cross-applications for personal safety intervention orders (**PSIOs**) and related to a neighbourhood dispute involving multiple parties. It had three parts, alleging that:

- a) The Officer dismissed the complainant's application for a PSIO (**Part A**).
- b) The Officer did not provide the complainant with a fair hearing (**Part B**). Relevantly, this part was particularised with examples that the Officer:
 - i. did not allow the complainant's representative to speak; and
 - ii. did not give the complainant an opportunity to speak or give evidence.
- c) The Officer acted inappropriately towards the complainant (**Part C**). Relevantly, this part was particularised with examples that the Officer:
 - i. was hostile, abusive and aggressive towards the complainant;
 - ii. made inappropriate and unprofessional comments;
 - iii. was biased, and praised and complimented the other parties; and
 - iv. coached and encouraged the other party throughout the hearing.

Officer's Response

The Commission gave the Officer an opportunity to respond to Part C of the second complaint.

In response, the Officer acknowledged the use of inappropriate language and comments, and apologised for her behaviour.

Findings and Assessment

Dismissed - Parts A and B

Part A did not disclose a basis to consider that the Officer's conduct may have infringed the standards of conduct generally expected of judicial officers. Part A concerned the Officer's decision-making functions as a judicial officer. Making decisions is a core responsibility of a judicial officer, and it is not the function of the Commission to review judicial decisions.

In relation to Part B, the Commission considered that where a litigant is legally represented, the legal representative – not the represented party – will ordinarily make submissions and engage with the judicial officer. And it is within a judicial officer’s discretion to determine whether or not a party gives evidence. In this matter, the complainant’s representative was provided an opportunity to make submissions. The Officer asked the representative questions and listened to the responses.

Referred - Part C

The Commission found that the Officer’s conduct in relation to Part C of the second complaint infringed the standards of conduct generally expected of judicial officers because:

- The Officer’s tone of voice was often (but not always) frustrated, aggressive and intimidating. The repeat instances of the Officer’s tone of voice cumulated over the course of the proceeding and were inappropriate.
- A reasonable member of the community was likely to regard some of the Officer’s comments as inappropriate. Particularly, remarks such as:
 - ‘for the love of God, do you people find each other or do you just become unreasonable when you move in together’;
 - ‘these are nonsense applications’;
 - ‘what the hell ...’;
 - ‘this sort of middle class nonsense’;
 - ‘I don’t have the patience for it’; and
 - ‘so don’t bullshit me’

were inconsistent with the general expectations of courtesy, respect and professionalism expected of a judicial officer.

On the other hand, the Commission was not satisfied that the Officer coached or encouraged the other party throughout the Proceeding, nor that the Officer was biased or praised the other party.

Outcome

The Commission dismissed Parts A¹ and B² of the second complaint.

The Commission found Part C of the second complaint substantiated. The Commission referred Part C of the second complaint to the Chief Magistrate (as head of jurisdiction) with the following recommendation as to the Officer’s future conduct:

- The head of jurisdiction counsels the Officer as to appropriate judicial conduct, including the need to exercise sensitivity, courtesy and respect in the court room towards all court users.

¹ Part A of the Complaint was dismissed under section 13(2)(a) of the Act on the basis that section 16(1) of the Act applied: the Commission was not satisfied that the Officer’s conduct may have infringed the standards of conduct generally expected of judicial officers, nor that any of the other criteria in section 16(1) of the Act were met.

² Part B of the Complaint was dismissed under section 13(2)(c) of the Act on the basis that section 16(4)(a) of the Act applied: a complaint may be dismissed if the Commission is satisfied that the complaint has not been substantiated.